

REMARKS

Claims 1-58 are pending in this application. By this Amendment, claims 1, 5, 21 and 49 are amended. No new matter is added.

Applicants gratefully acknowledge that 5-9, 21-36, 38, 41, 42, 44 and 53-58 are indicated to contain allowable subject matter. Claims 5 and 21 are rewritten into independent form to place claims 5-9, 21-36 and 49-58 in condition for allowance. As discussed below, claims 49-52 are improperly rejected since they depend from an otherwise allowable claim. Claim 49 is amended to depend from allowable claim 5 instead of allowable claim 6, thereby broadening claims 49-52. Claims 38, 41, 42 and 44 are not rewritten in independent form at this time since claim 1 is believed to be patentable for the reasons set forth below.

Claims 1-4 and 18-19 stand rejected under 35 U.S.C. §102(e) over U.S. Patent No. 6,412,639 to Hickey. This rejection is respectfully traversed.

Independent claim 1 recites *inter alia* "a single-use applicator assembly . . . comprising: a base portion having at least one sealed compartment . . . and an applicator at least partially disposed in the at least one compartment . . . wherein the applicator assembly is destructively unsealed by removal of the at least one applicator." It is respectfully submitted that Hickey fails to disclose, teach or suggest these claimed features.

Presumably referring to Figs. 1 and 3 of Hickey, the Office Action asserts that Hickey discloses a single-use applicator assembly 100 comprising a base portion 115 having at least one sealed compartment, a polymerizable monomeric adhesive material 150 contained therein, and an applicator 146 at least partially disposed therein. However, the "applicator assembly" 100 of Hickey is not destructively unsealed by removal of the at least one applicator, as recited in independent claim 1.

According to Hickey, the "base portion" or tray 115 is sealed/covered by a covering 120. Although not described in detail by Hickey, it should be understood that the "applicator

assembly" 100 must be unsealed by at least partially removing the covering 120 to access the "applicator" 146. Therefore, the "applicator assembly" 100 cannot be destructively unsealed "by removal of the at least one applicator," as recited in claim 1.

Therefore, it is respectfully submitted that claim 1 is patentable over Hickey. Further, it is respectfully submitted that claims 2-4 and 18-19 are patentable at least in view of the patentability of claim 1 from which they depend, as well as for the additional feature they recite. Accordingly, withdrawal of the rejection of claims 1-4 and 18-19 under 35 U.S.C. §102(e) over Hickey is respectfully requested.

Claims 10-17, 20, 37, 39, 40, 43 and 45-52 stand rejected under 35 U.S.C. §103(a) over Hickey. This rejection is respectfully traversed.

First, it is respectfully submitted that the rejection of claims 49-52 is improper in view of their dependence from a non-rejected claim.

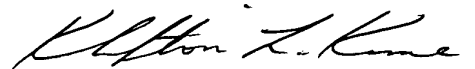
Second, it is respectfully submitted that Hickey cannot preclude patentability under 35 U.S.C. §103 because Hickey qualifies as prior art only under subsection (e) of section 102 and Hickey and this application were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. See 35 U.S.C. §103(c).

Therefore, withdrawal of the rejection under 35 U.S.C. §103(a) over Hickey is respectfully requested.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-58 are respectfully requested.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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